

The 8th February, 1973

No. 1149-4Lab-73/4860.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Bolton India Ltd., Sector No. 6, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 50 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/S BOLTON INDIA LTD., SECTOR NO. 6, FARIDABAD

Present :

Shri Onkar Parshad, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

The Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute between the management of M/s Bolton India Ltd., Sector No. 6, Faridabad and its workmen for adjudication to this Court,—*vide* order No. ID/FD/108-C-71/32310, dated 22nd August, 1972:—

- (1) Whether the management should pay bonus to their workmen for the year 1969-70 ? If so; with what details ?
- (2) Whether the management should fix the grades and scales of pay of their workmen ? If so; with what details ?

On receipt of the order of reference usual notices were given to the parties. The statement of claim on behalf of the workmen was filed on 19th September, 1972 with the allegation that the management had not shown to them the accounts for the year 1969-70, and they were entitled to bonus at 20 per cent of their earnings in the year. It was further urged that the management had not fixed the grades and scales of pay of the workmen. On the other hand the management contested the above demands of the workmen on merits contending that it was a small scale unit where 20 to 30 workmen were employed per day and the financial position of the concern did not justify any higher bonus or fixation of grades and scales of pay of the workmen. It was further urged that there was no union of the workers in the factory and the Bhartiya Mazdoor Sangh had, therefore, no *locus standi* to raise the present dispute nor had the workers concerned ever authorised it to do so. An objection regarding the description of the management as given in the order of reference was also raised and it was stated that the respondent concern was a Partnership concern and not a limited concern. The following issues arose for determination in the case:—

- (1) Whether the present reference is bad in law for the reasons stated in the preliminary objection in the written statement of the management ? (on management)
- (2) Whether the management should pay bonus to their workmen for the year 1969-70 ? If so; with what details ?
- (3) Whether the management should fix the grades and scales of pay of their workmen ? If so; with what details ?

The management has examined two witnesses including Shri Manjit Singh, Partner and Factory Manager M. W. 1 and Shri Raja Gopal, Time-keeper M. W. 2. M. W. 1 has deposed that the demand notice dated 17th November, 1971 which forms part of the reference was never received by the management and that there was no union of the workers in the factory. He has further stated that there were only 1 workers in this factory who were being paid wages over and above the minimum wages prescribed by the Government and they had no dispute with the management as per their application dated 23rd November, 1972 Exhibit M. W. 1/1.

M. W. 2 has proved the list of the workers, office and technical staff in October, 1971 and in December, 1972 marked Exhibit M. W. 2/1 to M. W. 2/4 correctly prepared on the basis of the entries in the relevant register maintained by him.

On behalf of the workmen four witnesses have been examined including Chanan Singh W. W. 1, Baldev Singh W. W. 2, both ex-workmen, of this concern Ram Phal Packer W. W. 3 and Samshodia Welder W. W. 4. According to W. W. 1 and W. W. 2 the dispute for bonus had been raised and was still

pending. W. W. 3 has deposed that the demand notice Exhibit W-1 is signed by him but in cross-examination he has expressed his ignorance if he had signed the demand notice which forms part of the present reference. W. W. 4 Samshodin is also an ex-workman and according to him the demand notice Ex. W. 1. was signed by him and the dispute for bonus and grades was still pending.

Arguments have been addressed on both sides and I have given careful consideration to the facts on record. According to the documentary evidence produced on behalf of the management consisting of the lists of the workmen in this factory in October, 1971 and December, 1972 there were about 22 workmen in this factory and 16 of them had addressed the letter Ex. M. W. 1/1 on 23rd November, 1972 that they had no dispute with the management and that they had nothing to do with the Bhartiya Mazdoor Sangh. No evidence has been brought on record to show that the workers of this concern had any union of their own or they were members of any other union affiliated with Bhartiya Mazdoor Sangh. There is further no evidence to prove that the workers had ever held any meeting to raise the demands in question on the management and that they had ever authorised the Bhartiya Mazdoor Sangh to do so. On the other hand it is proved from the perusal of the M.W.1/1 that the workers had in fact no such dispute with the management. The vague depositions made by 2/3 ex-workmen of the concern that the dispute had been raised and was still pending was not sufficient to rebut the documentary evidence produced by the management to validate the dispute. In the circumstances it can not be held that any industrial dispute existed between the parties and that the same was properly raised by the workmen or any union. Issue No. 1 is accordingly decided against the workmen and it is held that the reference is bad in law for want of any industrial dispute between the parties as defined under the Industrial Dispute Act, 1947 and its proper espousal.

There being thus no industrial dispute between the parties which could validly be referred for adjudication. It is not necessary to go into the merits of the case as the reference has to be dismissed on issue No. 1 alone and I order accordingly. No order as to costs.

O. P. SHARMA,

Dated the 30th January, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 100, dated 31st January, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Dated the 30th January, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 9th February, 1973

No. 1148-4Lab-73/4862.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Lakshmi Rattan Engineering Works Ltd., Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Application No. 25 of 1972 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI SUMER SINGH WORKMAN AND THE MANAGEMENT OF M/S LAKSHMI RATTAN
ENGINEERING WORKS LTD., FARIDABAD.

Present:—

Shri Onkar Parshad, for the workman.

Shri R. C. Sharma, for the management.

AWARD

The facts relevant for the disposal of this complaint under section 33-A of the Industrial Disputes Act, 1947, may briefly be stated as under :—

Sarvshri Sumer Singh, Token No. 143, Sukhbir Singh, Token No. 67, Parlad, Token No. 48, Shiv Pal, Token No. 17, are workmen of M/s Lakshmi Rattan Engineering Works, Ltd., Faridabad. The management laid off the workmen and they have raised a dispute which is registered as Reference No. 3 of 1972. During the pendency of the said reference the management levelled charges of misconduct against the 4 workmen named above and gave them notices of enquiry into the said charges. They were also placed under suspension during the pendency of the enquiry.

Feeling aggrieved they brought the present complaint with the allegations that they had been working in the factory for the last 15 years or so and the impugned action of suspension had been taken mala fide against them because they had raised a dispute in respect of the illegal lay off resorted to by the management.

Notice of the complaint was given to the management and the same has been contested giving rise to the following issues :—

- (1) Whether a joint complaint under section 33-A of the Industrial Disputes Act, 1947, is not maintainable? (on management)
- (2) Whether the suspension of the complainants is justified and in order? If not, with what effect?
- (3) Whether the complainants have been suspended by the management in contravention of the provisions of section 33 of the Industrial Disputes Act, 1947? If so, to what relief are they entitled?

The management examined only one witness Shri S. S. Joshi, Labour Officer, M.W.I. No evidence was led on behalf of the workmen and the case was fixed for arguments. In the meantime the management dropped the enquiry against the workmen concerned and after withdrawing the order of their suspension Sarvshri Sukhbir Singh, Token No. 67, Parlad Singh, Token No. 42 and Shiv Pal, Token No. 27, were taken back on duty on the assurance given by the union leader that they would discharge their duties properly. Similar undertaking having been given by the remaining workman Shri Sumer Singh in the Court the management undertook to take him also back on duty with effect from 15th January, 1973. The enquiry against all the workmen has been dropped, as would be clear from the statement of Shri R. C. Sharma the authorised representative of the management.

In view of the above, no further proceedings are called for in the present complaint. It is not necessary to go into the issues involved. It has been urged on behalf of the management that under the Certified Standing Orders of the company it had the power to place the workmen under suspension on the charges of misconduct during the pendency of the domestic enquiry into the charges. That may or may not be so. But since the enquiry itself has been dropped and the suspension order withdrawn by taking the workmen concerned on duty the relief of reinstatement asked for by the workmen has automatically been given to them and, in the circumstances, they would also be entitled to their full back wages in the absence of anything on the record to justify the impugned order of their suspension which is no longer in existence. The present complaint is decided accordingly and the management is directed to pay full back wages to the workmen concerned. No order as to costs.

O. P. SHARMA.

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 101, dated 31st January, 1973

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated 30th January, 1973.